REMARKS

Claims 1-22 are in the case. The Claims were made subject to a requirement to restrict. Accordingly Claims 1,2 and 9-13 (Group 1) were elected as they related to the species of "the presence of chemicals" and all non-elected claims were canceled.

Claims 1,2 9-13 stand rejected under 35 USC § 112, and 102. Claims 2 and 9-13 have been objected to.

Claims 1, 2, 9-13 have been amended to more clearly define applicants invention

No new matter has been added

Claim Objections

Claims 2, and 9-13 are objected for containing non-elected subject matter or for being dependant on canceled claims. The claims have been amended to overcome this objection.

Claim Rejections – 35 USC § 112

Claims 9-13 are rejected under 35 USC § 112, second paragraph for indefiniteness.

Regarding Claim 9: there is no antecedent basis for the terms "organism" in Claim 1 and the sentence is grammatically incorrect. Claim 9 and Claim 1 have been amended to overcome this rejection.

Regarding Claim 10: There is no antecedent basis for the terms "prokaryote" and the sentence in which this term is used is grammatically incorrect. The Claim has been amended to overcome this rejection.

Regarding Claim 12: there is no antecedent basis for the phrase "the reporter gene or reporter gene complex. Claim 1 has been amended to overcome this rejection.

Regarding Claim 13: there is no antecedent basis for the phrase "the genomic nucleotides sequence". The Claim has been amended to overcome this rejection.

Claim Rejections – 35 USC § 102

Claims 1-2 and 9-13 are rejected under 35 USC § 102(b) as being anticipated by Ashby, et al. (US Patent No. 5,569,588, hereinafter "Ashby").

Ashby teaches a method to measure the transcriptional responsiveness of an organism to a candidate drug by detecting reporter gene product signals from separately isolated cells of a target organism on genome-wide bases. Each cell contains a recombinant construct with the reporter gene operably linked to a different endogenous transcriptional regulatory element of the target organism. The method of Ashby does not teach the use of multiple arrays to develop a pattern of responses nor do they teach an analysis that is independent of transcriptional responsiveness.

It is the Examiner's opinion that Ashby teaches all of the elements of the present invention. Applicants respectfully traverse.

A key distinction between Ashby and the present invention is the limitation in the Claims of at least two genome-wide scale, genome-registered collections, one of which must be a set of reporter gene fusions as defined in the specification and the other collection being something other than a collection of reporter gene fusions. Ashby clearly only uses a single collection of reporter gene fusions and does not make use of additional genome-wide scale, genome-registered collections.

Additionally the method of Ashby differs from the present invention in that Ashby only teaches patterns of transcriptional responses, whereas the present method encompassses transcription profiles as well as comparisons of transcription profiles and phenotypic responses for example, null, underexpressing or overexpressing mutants (Flow Diagrams I and II, pp. 28-29 of the specification). In addition, Ashby, et al. compare transcriptional responses between microorganisms spanning different genera, whereas Applicants' invention teaches comparison of responses among strains of a single species of microorganism.

As each and every element of the claimed invention cannot be found in the cited reference Applicants respectfully request removal of this rejection under 35 USC § 102 and reconsideration of the claims as amended.

Should there be any fee due in connection with the filing of this Response and Amendment please charge such fee to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company).

Respectfully submitted,

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